

REMARKS

By the foregoing amendment, claim 1 has been amended to specify that the collecting tank is joined to the end walls “in a contacting, fluid-tight manner....” Claim 11 has been amended to specify that the step of attaching the collecting tank such that the walls thereof extend “...past said bifurcation of said end walls and in contact with said end walls.” Further, claim 12 has been re-written in independent form.

Claims 1, 2, and 11-13 are in the case. In view of the indication of allowability of claims 12 and 13 subject to their being re-written in independent form, it is believed that they are not an issue and are in allowable form.

Claims 1, 2, and 11 have been rejected as anticipated by Jamison. While the applicant does not agree with that assessment, and is of the belief that the claims in their earlier form are clearly defined over Jamison in requiring the seal between the tanks to be against the end walls of the tubes and/or that the tanks of Jamison do not extend past the bifurcation as the claims require of applicant's structure, the applicant has amended independent claims 1 and 11 to specify that the tank walls contact the sidewalls of the tubes. This is in response to the Examiner's implied suggestion contained on page 2 of the outstanding Office Action wherein he states “Applicant claims that the collecting tank is joined in a fluid-tight manner to the end walls (claims 1 and 11) not necessarily in abut [sic] contact.” To the extent that the Examiner believes that sealing to the flanges as in Jamison is the same as sealing to the end walls as claimed, claims 1 and 11 now clearly define over Jamison in specifying that the tanks contact the tube end walls in addition to being sealed thereto. Consequently, this amendment ought to be entered for the purpose of placing the case in allowable form or, alternatively, in better

form for appeal. Moreover, even without the amendment, it is again argued that the claims 1 and 11 are not anticipated by Jamison because Jamison lacks features that are claimed. For example, it is again pointed out that Jamison seals the flanges, not end walls.

The flanges of Jamison are two flanges of plate pairs 20, rather than end walls of tubes as claimed. The Examiner's reference to sidewalls 62 is an error as Jamison makes it clear that 62 is a flange extension.

Further, the claims additionally require that there be a bifurcation of the end wall and that the tanks extend past the bifurcation. If the Examiner is considering the slot 84 as being the claimed bifurcation, it should be noted that it is not really in the end walls, but rather in the flange 62. Even more significantly, because the walls of the tank go into the slots 84, and the entry of those walls into such slot is limited by the end of the slot, it is impossible for the end walls to extend beyond the bifurcation as claimed.

Alternatively, if the Examiner considers the joint between flanges 54 of adjacent plate pairs as being the bifurcation, again the tanks do not extend past the bifurcation which runs the entire length of the plate pairs and the depth of the slots 84 limit entry of the tanks. Consequently, no matter how viewed, this requirement of claims 1 and 11 is not shown by Jamison; and consequently a Section 102 rejection is improper.

Claim 2 depends upon claim 1 and is accordingly believed to be free of anticipation for the same reason.

In view of the above, it is believed that it is clear that a Section 102 rejection is improper because all of the claimed elements or steps are not found in a single reference. Regardless of how the matter of sealing contact with the sidewalls versus flanges is viewed, it

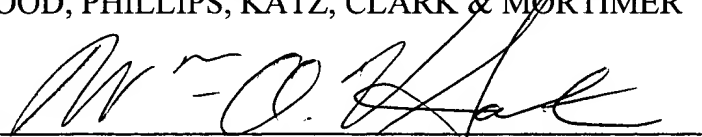
Serial No. 09/837,072 - - - 11

is 100% clear that the claimed bifurcation and its relation to the sidewalls of the tank as extending past the bifurcation simply cannot be met no matter what kind of a warped interpretation is supplied Jamison. It therefore follows that the application is in allowable form and notification to that effect is solicited.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

By

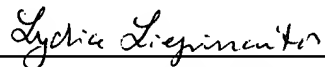


Wm. A. VanSanten, Reg. No. 22,810

500 West Madison Street, Suite 3800
Chicago, Illinois 60661-2511
(312) 876-1800

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on *September 20*, 2004.



Lydia Liepinaitis

Serial No. 09/837,072 - - - 3

AMENDMENTS TO THE DRAWINGS

None.